

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.4251 OF 2006

Sanjay Kamlakar Govari & Anr. .. Applicants

Versus

State of Maharashtra .. Respondent

Mr.V.M.Thorat for applicants

Mr.S.S.Pednekar, A.P.P. for State.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 7th December 2006

P.C.

. Applicants are apprehending their arrest
in connection with C.R.No.I-243 of 2006
registered with Panvel Town police station for

offences alleged and punishable under section 323, 324, 326, 504, 506 and 34 I.P.C. coupled with those under the Arms Act and the Bombay Prohibition Act.

2. The case of the applicants is that complainant Manohar lodged a complaint with police station alleging that he was assaulted by his real brother Ananta - accused No.1 on 17th June 2006 in his village. It appears that there was a dispute between them relating to some properties. The present applicants, it is alleged, also assaulted the complainant.

3. Accused No.1 Ananta was arrested on 15th October 2006 and remanded to police custody till 18th October 2006. He was transferred to magisterial custody. He filed an application for bail on 19th October 2006 in the Court of Sessions Judge, Raigad. He filed an application for bail on 19th October 2006 in the Court of

Sessions Judge being Criminal Application No.847 of 2006. Additional Sessions Judge by an order dated 20th October 2006 was pleased to enlarge the Accused No.1 on bail.

4. Applicants also applied for pre-arrest bail but the same was rejected on 20th October 2006. However, the applicants were not arrested and later on, on account of changed circumstances, presented a fresh application for pre-arrest bail being Criminal Application No.870 of 2006. This application was opposed but the applicants contended that the complainant is the real brother of accused No.1 and both have settled their disputes concerning the property. In such circumstances, apart from the fact that the accused No.1 has been enlarged on bail, custodial interrogation of the present applicants is wholly unnecessary, they, therefore, be enlarged on bail.

5. It is contended by the learned A.P.P. that whatever may be the nature of the alleged settlement, offence is not compoundable. Section 326 has been applied in this case. However, he does not dispute the subsequent developments and the fact that the applicants have not been arrested till date. Learned A.P.P. could not satisfy me as to how custodial interrogation of the applicants is necessary. More so, when the accused No.1 Ananta has been enlarged on bail. In the above circumstances, the Additional Sessions Judge was in error in rejecting their application. In my view, the subsequent development was a definite factor and could have been taken into consideration. Hence, following order:-

- i) In the event of the arrest of the applicants (1) Sanjay Kamlakar Govri and (2) Dinesh Kamlakar Govri, in connection with C.R.No.I-243 of 2006 registered with

Panvel Town Police Station, the applicant shall be enlarged on bail in the sum of Rs.10,000/- each with one or two sureties in the like amount.

ii) The bail is granted subject to condition that the applicants will attend the Panvel Town police station once a week on every Saturday between 5.00 p.m. and 7.00 p.m. till the charge sheet is filed and thereafter as directed by the trial court.

iii) Bail is granted subject to condition that the applicants shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of accusation against them so as to dissuade him from disclosing such facts to the Court or to the police officer/

investigating agency. The applicants shall not tamper with the prosecution evidence.

iv) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial

v) This order will enure to the benefit of the applicants only till charge sheet is filed. Thereafter, he will be free to apply to the appropriate court for appropriate relief.

vi) Application is disposed of in above terms.

vii) The parties to act upon an authenticated copy of this order.

(S.C.DHARMADHIKARI, J)